

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE: LIBOR-BASED FINANCIAL
INSTRUMENTS ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:
COMMUNITY BANK & TRUST ACTION

COMMUNITY BANK & TRUST, Individually
and On Behalf of All Others Similarly Situated,

Plaintiff,

v.

BANK OF AMERICA CORPORATION;
BANK OF AMERICA, N.A.; CITIGROUP,
INC.; CITIBANK, N.A.; JPMORGAN CHASE
& CO.; and JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION,

Defendants.

MDL No. 2262
Master File No. 1:11-md-2262-NRB

12 Civ. 4205

ECF CASE

**DEFENDANTS' RESPONSE TO COMMUNITY BANK & TRUST'S APPLICATION
FOR INCLUSION IN THE MDL PURSUANT TO JUNE 14, 2012 ORDERS**

Defendants¹ respectfully submit this response to the application by Plaintiff Community Bank & Trust for inclusion in the MDL (Document 154). Defendants support Community Bank's application because Community Bank's Complaint alleges facts and causes of action similar to those alleged by the class and individual plaintiffs in the MDL and because it appears

¹ There are three sets of Defendants in the *Community Bank* matter: (1) Bank of America Corp. and Bank of America, N.A., (2) Citigroup, Inc. and Citibank N.A., and (3) JPMorgan Chase & Co. and JPMorgan Chase Bank, N. A.

that the transactions covered by Community Bank's Complaint are separate from the transactions covered by the other class actions in the MDL.²

Community Bank proposes that motions to dismiss its Complaint should be due "on the same date set for the opposition briefs" on the motions to dismiss the other complaints, *i.e.*, August 28, 2012. (Application at 6). If the Court grants Plaintiff's application, Defendants do not oppose the proposal for motions to be due on August 28, 2012, and request leave to file a joint opening brief of no more than 35 pages.

Community Bank also proposes that the briefing schedule should be "similar in time" to the briefing schedule in the other cases in this MDL. Defendants express no opinion on how many days Community Bank should have for its opposition brief (it has not proposed a specific schedule), but regardless of the specific date that Community Bank's opposition brief may be due, Defendants should have 30 days thereafter for their joint reply brief, just as provided for in the schedule for the other motions to dismiss. Although some of the issues in a motion to dismiss the Community Bank Complaint will overlap with the motions already filed, Defendants should be afforded sufficient time to adequately address any issues specific to the Community Bank Complaint.

² The classes are principally defined in terms of categories of transactions, rather than categories of entities. As a result, a single entity might have transactions that make it a member of multiple classes. Defendants reserve the right to argue, at an appropriate time, that such an approach is not proper. For present purposes, Defendants merely agree that given plaintiffs' transaction-based class definitions, the loans that are the basis for Community Bank's claims for damages are not within the categories of transactions pursued by other plaintiffs.

Dated: New York, New York
July 5, 2012

/s/ Robert F. Wise, Jr.

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Respectfully Submitted,

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